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EXAMINER

PARSLEY, DAVID J

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 01/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/913,317

Applicant(s)

ZENTI, MAXIMILIANO

Examiner

David J Parsley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 43-80 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 43-80 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 08 November 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Detailed Action

Amendment

1. This office action is in response to applicant's amendment (paper no. 6) dated 11-8-02 and this action is final.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 62-80 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 62 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: the mixing step.

Claims 63-80 depend from rejected claim 62 and include all of the limitations of claim 62 thereby rendering these dependent claims indefinite.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 43, 46, 50-51, and 53-54 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,584,790 to Gaughen.

Referring to claim 43, Gaughen discloses a method of preparing a plant cultivation, particularly a lawn, comprising, also in a different time sequence, the following operating steps: preparing a seeding bed and introducing seeds therein – see figure 1 and column 2 lines 55-65 and column 3 lines 35-49, dividing the seeding bed into sods – 18, cohesion treatment whereby the resulting sod is not brittle makes it possible to maintain a geometric shape and allows proper handling until the laying step is completed – see figure 1 and column 2 lines 55-65 and column 3 lines 35-49, laying the sod – 19, moistening the sod before or after laying and regular watering afterwards – see column 3 lines 32-35 and column 5 lines 61-68 and column 6 lines 1-2, and the cohesion treatment is performed by laying a layer of adhesive on the outer surface of the sod - see for example column 2 lines 55-65 and columns 3-5.

Referring to claims 46, Gaughen discloses the preparation of a seeding bed is obtained by depositing successive layers of various components – see figures 1-7 and column 3 lines 60-68, column 4 lines 1-68 and column 5 lines 1-68.

Referring to claim 50, Gaughen discloses the introduction of seeds is carried out by depositing a layer of seeds – see column 3 lines 35-49.

Referring to claim 51, Gaughen discloses the drying is nondestructive and reduces the percentage of humidity in the seeding bed to the point at which seed germination is no longer possible and tends to preserve the possibility of rapid future revival of microorganisms activity without degrading the natural and chemical organic substances present in the seeding bed – see column 3 lines 50-53 and column 5 lines 31-48.

Referring to claim 53, Gaughen discloses the drying is provided by means of low-temperature heat sources and by air change – see column 5 lines 31-48.

Referring to claim 54, Gaughen discloses a sod for cultivating plants, comprising a seeded seeding bed – 100 including a fertilizer – see column 2 lines 55-68 and column 6 lines 9-23 and wrapped or at least held together by a suitable organic bonding agent so as to maintain its shape – see column 3 lines 35-49, column 5 lines 10-24, and column 24-32.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 44, 62, 64, 65, 69-70 and 72-73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaughen in view of U.S. Patent No. 6,088,957 to Kazemzadeh.

Referring to claims 45 and 64, Gaughen as modified by Kazemzadeh further discloses the preparation of the seeding bed comprises dosage of the seeds and the layer of glue and the mixing thereof – see figure 2 and column 3 lines 52-67 and column 4 lines 1-10. Therefore it would have been obvious to one of ordinary skill in the art to take the method of preparing a seeding bed of Gaughen and add the cohesion treatment performed during mixing of Kazemzadeh, so as to make ensure that the components comprising the sod are more securely held together so that they won't break apart during the laying process in that the glue is part of the mixture and thus holds all of the sod components together.

. Referring to claim 62, Gaughen discloses a method of preparing a plant cultivation, particularly a lawn, comprising, also in a different time sequence, the following operating steps: preparing a seeding bed and introducing seeds therein – see figure 1 and column 2 lines 55-65 and column 3 lines 35-49, dividing the seeding bed into sods – 18, cohesion treatment whereby the resulting sod is not brittle makes it possible to maintain a geometric shape and allows proper handling until the laying step is completed – see figure 1 and column 2 lines 55-65 and column 3 lines 35-49, laying the sod – 19, moistening the sod before or after laying and regular watering afterwards – see column 3 lines 32-35 and column 5 lines 61-68 and column 6 lines 1-2, before laying the sod a nondestructive drying step is performed on the sod – 18 – see figure 1 and columns 1-5, and wherein the cohesion treatment is performed by adding a bonding agent to the sod – see for example figures 1-5. Gaughen does not disclose adding a bonding agent to the sod during mixing. Kazemzadeh does disclose adding a bonding agent to the sod during mixing – see figure 2 and column 3 lines 52-67 and column 4 lines 1-10. Therefore it would have been obvious to one of ordinary skill in the art to take the method of preparing a seeding bed of

Gaughen and add the cohesion treatment performed during mixing of Kazemzadeh, so as to make ensure that the components comprising the sod are more securely held together so that they won't break apart during the laying process in that the glue is part of the mixture and thus holds all of the sod components together.

Referring to claim 65, Gaughen as modified by Kazemzadeh further discloses the preparation of a seeding bed is obtained by depositing successive layers of various components – see figures 1-7 and column 3 lines 60-68, column 4 lines 1-68 and column 5 lines 1-68 of Gaughen.

Referring to claim 69, Gaughen as modified by Kazemzadeh further discloses the introduction of seeds is carried out by depositing a layer of seeds – see column 3 lines 35-49 of Gaughen.

Referring to claim 70, Gaughen as modified by Kazemzadeh further discloses the drying is nondestructive and reduces the percentage of humidity in the seeding bed to the point at which seed germination is no longer possible and tends to preserve the possibility of rapid future revival of microorganisms activity without degrading the natural and chemical organic substances present in the seeding bed – see column 3 lines 50-53 and column 5 lines 31-48 of Gaughen.

Referring to claim 72, Gaughen as modified by Kazemzadeh further discloses the drying is provided by means of low-temperature heat sources and by air change – see column 5 lines 31-48 of Gaughen.

Referring to claim 73, Gaughen as modified by Kazemzadeh further discloses a sod for cultivating plants, comprising a seeded seeding bed – 100 including a fertilizer – see column 2

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lines 55-68 and column 6 lines 9-23 and wrapped or at least held together by a suitable organic bonding agent so as to maintain its shape – see column 3 lines 35-49, column 5 lines 10-24, and column 24-32 of Gaughen.

Claims 44, 47, 49, 55-56, 63, 66, 68 and 74-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaughen and Gaughen as modified by Kazemzadeh as applied to claims 43 and 62 above, and further in view of U.S. Patent No. 4,786,550 to McFarland et al.

Referring to claims 44 and 63, Gaughen and Gaughen as modified by Kazemzadeh does not disclose wherein after drying the sod is packaged in a suitable package for its preservation, storage, and transport, preferably under vacuum. McFarland et al. does disclose wherein after drying the sod is packaged in a suitable package for its preservation, storage, and transport, preferably under vacuum – see column 4 lines 13-17 and column 6 lines 59-63. Therefore it would have been obvious to one of ordinary skill in the art to take the method of preparing a seeding bed of Gaughen and Gaughen as modified by Kazemzadeh and add the packaging the sod in a package for storage and transport of McFarland et al., so as to make the method profitable in that the sod can be shipped and sold since it is packaged for transport.

Referring to claims 47 and 66, Gaughen and Gaughen as modified by Kazemzadeh does not disclose wherein the division into sods occurs by molding the mix in a template, die or by extrusion in the chosen sod shape. McFarland et al. does disclose wherein the division into sods occurs by molding the mix by extrusion in the chosen sod shape – see figures 1-10 and column 3 lines 53-68 and column 4 lines 1-17. Therefore it would have been obvious to one of ordinary skill in the art to take the method of preparing a seeding bed of Gaughen and Gaughen as modified by Kazemzadeh and add the step of dividing into sods occurring by extrusion in the

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chosen sod shape of McFarland et al., so as to ensure that the sod maintains the desired shape in that the process is automated and easily controllable.

Referring to claims 49 and 68, Gaughen and Gaughen as modified by Kazemzadeh does not disclose wherein the introduction of seeds is carried out by implantation of a seeding machine. McFarland et al. does disclose wherein the introduction of seeds is carried out by implantation of a seeding machine – 62,64,66 – see figures 1-10 and column 3 lines 53-68. Therefore it would have been obvious to one of ordinary skill in the art to take the method of preparing a seeding bed of Gaughen and Gaughen as modified by Kazemzadeh and add the introduction of seeds by a seeding machine of McFarland et al., so as to make the process quicker and more efficient in that the laying of seeds is automated and thus allows for quicker laying of the seeds and for more seeds to be placed on the sod.

Claims 48 and 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaughen and Gaughen as modified by Kazemzadeh as applied to claims 43 and 62 above, and further in view of U.S. Patent No. 4,063,385 to Friedberg. Gaughen and Gaughen as modified by Kazemzadeh does not disclose wherein the division into sods occurs by die-cutting. Friedberg does disclose the division of sods occurs by die-cutting – see figures 1-2 and column 2 lines 1-68 and column 3 lines 1-16. Therefore it would have been obvious to one of ordinary skill in the art to take the method of preparing a seeding bed of Gaughen and Gaughen as modified by Kazemzadeh and add the division into sods by die-cutting of Friedberg, so as to make the cutting operation quicker and easier since it is automated, therefore making the process more efficient.

Referring to claims 55 and 74, Gaughen as modified by Kazemzadeh further discloses wherein the bonding agent is biodegradable – see column 4 lines 28-59 of Kazemzadeh.

Therefore it would have been obvious to one of ordinary skill in the art to take the method of preparing a seeding bed of Gaughen and Gaughen as modified by Kazemzadeh and add the bonding agent being biodegradable of Kazemzadeh, so as to make the process more efficient in that after the sod is placed on the ground, the bonding agent degrades and thus does not prevent water from reaching the seeds, thus making the process more effective and efficient.

Referring to claims 56 and 75, Gaughen as modified by Kazemzadeh further discloses wherein the bonding agent comprises at least one colloidal substance – see column 4 lines 28-59 of Kazemzadeh. Therefore it would have been obvious to one of ordinary skill in the art to take the method of preparing a seeding bed of Gaughen and Gaughen as modified by Kazemzadeh and add the bonding agent comprising at least one colloidal substance of Kazemzadeh, so as to make the process more efficient in that after the sod is placed on the ground, the bonding agent degrades and thus does not prevent water from reaching the seeds, thus making the process more effective and efficient.

Claims 57-59 and 76-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaughen as modified by Kazemzadeh as applied to claims 56 and 75 above, and further in view of U.S. Patent No. 4,414,776 to Ball.

Referring to claims 57 and 76, Gaughen as modified by Kazemzadeh does not disclose the bonding agent comprises glue of vegetable or animal origin. Ball does disclose the bonding agent comprises glue of vegetable or animal origin – see column 2 lines 60-68. Therefore it would have been obvious to one of ordinary skill in the art to take the method of preparing a seeding bed of Gaughen as modified by Kazemzadeh and add the bonding agent comprising glue of animal or vegetable origin of Ball, so as to make the process more efficient in that after the

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sod is placed on the ground, the bonding agent degrades and thus does not prevent water from reaching the seeds, thus making the process more effective and efficient.

Referring to claims 58 and 77, Gaughen as modified by Kazemzadeh and Ball further discloses the seeding bed comprises soil, which includes mineral substances and at least one organic substance – see column 6 lines 9-23 of Gaughen.

Referring to claims 59 and 78, Gaughen as modified by Kazemzadeh and Ball further discloses the organic substance comprises one or more fertilizers – see column 6 lines 9-23 of Gaughen.

Claims 52 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaughen and Gaughen as modified by Kazemzadeh as applied to claims 51 and 70, and further in view of U.S. Patent No. 4,109,395 to Huang. Gaughen does not disclose wherein the drying is performed by exposure in a ventilated greenhouse. Huang does disclose wherein the drying is performed by exposure in a ventilated greenhouse – see figures 1-4 and columns 2-4. Therefore it would have been obvious to one of ordinary skill in the art to take the method of preparing a seeding bed of Gaughen and Gaughen as modified by Kazemzadeh and add the drying step performed in a ventilated greenhouse of Huang, so as to protect the sod during the process in that inside the greenhouse the sod is protected from any outside elements that could cause it harm.

Claims 60-61 and 79-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaughen as modified by Kazemzadeh and Ball as applied to claims 59 and 78 above, and further in view of McFarland et al.

Referring to claims 60 and 79, Gaughen as modified by Kazemzadeh and Ball does not disclose the sod comprising at least one selective herbicide, which hinders the germination and

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growth of plants which are different from and antagonists of those whose growth is sought.

McFarland et al. does disclose the sod comprising at least one selective herbicide which hinders the germination and growth of plants which are different from and antagonists of those whose growth is sought – see column 3 lines 19-23 and column 6 lines 43-52. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Gaughen as modified by Kazemzadeh and Ball and add the herbicide of McFarland et al., so as to make the device more effective in that the sod can grow without being limited or harmed by other types of plants growing in the sod.

Referring to claims 61 and 80 Gaughen as modified by Kazemzadeh, Ball and McFarland et al. further discloses the sod having a geometric shape which makes it possible to cover continuously the surface to be revegetated – see column 2 lines 66-68 and column 3 lines 54-59 of Gaughen which shows the sod covers the surface to be revegetated and it is inherent that the sod has a geometric shape since that is necessary for the sod to continuously cover the surface to be revegetated.

Response to Arguments

5. Regarding claim 43, applicant states that the Gaughen reference does not show the limitation of the adhesive being layered on the outer surface of the sod. As seen in Gaughen in column 2 lines 55-68 and column 3 lines 36-53 and column 5 lines 11-24, a layer of adhesive is layered on the outer surface of the sod. The claim limitations do not state that the adhesive is layered directly onto the outer surface of the sod and the paper on which the adhesive is layered

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sits on the outer surface of the sod and therefore the adhesive is layered on the outer surface of the sod.

Further applicant states the layer of paper of the Gaughen reference is arranged once the seeds have been fed over the first layer of paper, which differs from applicant's cohesion treatment. However claim 43 does not specifically state what the cohesion treatment is other than after the treatment the sod is not brittle making it possible to maintain a geometric shape to allow proper handling of the sod. Adding an adhesive is a form of cohesion treatment as it allows for objects to adhere to the sod via the adhesive and as seen above in paragraph 3 of this office action the Gaughen reference discloses the cohesion treatment as claimed in claim 43.

Regarding claim 62, applicant states the combination of the Gaughen and Kazemzadeh references does not disclose the claim limitation of a bonding agent being added during mixing as a form of a cohesion treatment. As seen above in paragraph 4 above the Kazemzadeh reference discloses a bonding agent – (being the liquid gel or other adherent medium as seen in column 3 lines 66-67 and column 4 lines 1-7). An adherent medium is synonymous with a bonding agent in that bonding and adhering are one and the same. Further, Kazemzadeh discloses mixing – at 26 where item 26 is described as a tumbling station in which the seeds and adherent medium are tumbled or mixed before being applied to the sod. Further applicant states the cohesion treatment of Kazemzadeh is not done to the sod, but as seen in figure 2 and columns 3-5 the cohesion treatment adheres the seeds to the sod and thus is a form of cohesion treatment, which directly affects the sod. The claim language does not specifically state that the cohesion treatment includes the sod being mixed with the bonding agent nor is “cohesion treatment”

specifically defined in applicant's disclosure. Therefore the combination of the Gaughen and Kazemzadeh references renders claim 62 obvious as stated above in paragraph 4.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

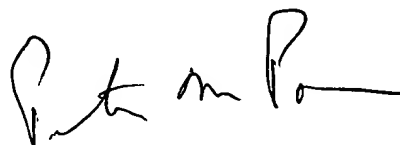
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patent is cited to further show the state of the art with respect to sod and seed mats in general:

U.S. Pat. No. 3,834,072 to Rack – shows adding bonding agent during mixing

8. Any inquiry concerning this communication from the examiner should be directed to David Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on Monday-Friday from 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574.


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